

UNITED STATES DISTRICT COURT  
IN THE EASTERN DISTRICT OF MICHIGAN

SANDRA LEY,  
Plaintiff,

-vs.-

**DEMAND FOR JURY TRIAL**

DYCK O'NEAL, INC.,  
a Texas corporation,  
Defendant.

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**COMPLAINT & JURY DEMAND**

Plaintiff, Sandra Ley, through counsel, Nitzkin and Associates, by Gary Nitzkin states the following claims for relief:

**JURISDICTION**

1. This court has jurisdiction under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

**PARTIES**

3. The Defendant to this lawsuit is Dyck O'Neal, Inc. which is a Texas company that maintains registered offices in Oakland County.

## **VENUE**

4. The transactions and occurrences which give rise to this action occurred in Oakland County.
5. Venue is proper in the Eastern District of Michigan.

## **GENERAL ALLEGATIONS**

6. Defendant is attempting to collect a consumer type debt allegedly owed by Plaintiff in the amount of \$23,000.00.
7. On or about March 21, 2012, Plaintiff, through counsel, sent Defendant a cease and desist letter via regular mail.
8. Despite this request, on or about April 10, 2012, Plaintiff received a letter from Defendant attempting to collect on the alleged debt.

## **COUNT I - FAIR DEBT COLLECTION PRACTICES ACT**

9. Plaintiff reincorporates the preceding allegations by reference.
10. At all relevant times Defendant, in the ordinary course of its business, regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
11. Plaintiff is a "consumer" for purposes of the FDCPA and the account at issue in this case is a consumer debt.
12. Defendant is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).

13. Defendant's foregoing acts in attempting to collect this alleged debt violated 15 U.S.C. §1692 et. seq;

14. The Plaintiff has suffered economic, emotional, general and statutory damages as a result of these violations of the FDCPA.

## **COUNT II - VIOLATION OF THE MICHIGAN OCCUPATIONAL CODE**

15. Plaintiff incorporates the preceding allegations by reference.

16. Defendant is a "collection agency" as that term is defined in the Michigan Occupational Code ("MOC"), M.C.L. § 339.901(b).

17. Plaintiff is a debtor as that term is defined in M.C.L. § 339.901(f).

18. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §339.915

19. Plaintiff has suffered damages as a result of these violations of the Michigan Occupational Code.

20. These violations of the Michigan Occupational Code were willful.

## **COUNT III - VIOLATION OF THE MICHIGAN COLLECTION PRACTICES ACT**

21. Plaintiff incorporates the preceding allegations by reference.

22. Defendant is a "Regulated Person" as that term is defined in the Michigan Collection Practices Act ("MCPA"), at MCL § 445.251.

23. Plaintiff is a "Consumer" as that term is defined at MCL § 445.251.

24. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §445.252

25. Plaintiff has suffered damages as a result of these violations of the MCPA.

26. These violations of the MCPA were willful.

### **DEMAND FOR JURY TRIAL**

Plaintiff demands trial by jury in this action.

### **DEMAND FOR JUDGMENT FOR RELIEF**

Accordingly, Plaintiff requests that the Court grant him the following relief against the defendant:

- a. Actual damages.
- b. Statutory damages.
- c. Treble damages.
- d. Statutory costs and attorney fees.

Respectfully submitted,

April 20, 2012

/s/ Gary Nitzkin

GARY D. NITZKIN P41155

MICHIGAN CONSUMER CREDIT LAWYERS

Attorneys for Plaintiff

22142 West Nine Mile Road

Southfield, MI 48033

(248) 353-2882

Fax (248) 353-4840

Email – [gary@micreditlawyer.com](mailto:gary@micreditlawyer.com)